

REMARKS

Reconsideration and withdrawal of the rejection of all the claims now in the application (i.e. Claims 1-4 and 11-30) is respectfully requested in view of the foregoing amendments and the following remarks.

Initially, the Examiner objected to the drawings for not showing all the features of claim 1. The Examiner considered that "at least one cross bore at the two ends of the nail shank" must be shown. Formal drawings were submitted to the United States Patent and Trademark Office on April 6, 2004. A copy of this Communication is attached hereto. FIG. 1 clearly shows cross bore 20 at one end of the nail and FIG. 2 clearly shows cross bore 38 at the other end of the nail. Consequently, it is applicants' position that the drawing sheets submitted on April 6, 2004 appear to show the elements of claim 1. The Examiner went on to object to claims as being indefinite for the various wording problems listed on page 3 of the Office Action. Applicant has amended the claims to overcome these objections.

Applicants would like to thank the Examiner for his indication that claims 4, 12-15, 17-21 and 24 would be allowable if rewritten in independent form. Applicants have rewritten allowable claims 12, 17 and 24 as new claims 25, 26 and 27 respectively. These claims contain all the limitations of the claims from which claims 12, 17 and 24 depend.

Applicants have amended claims 1, 11 and 24 to make it clear that the biasing element engages the outer surface of the bone nail shank in the area surrounding the bore. It can be seen from the figures that the leading end of the resilient sleeve engages this outer surface of the nail, unlike the leading end of the Lawes sleeve 12. Clearly, the sleeve 12 of Lawes does not engage any outer surface of the bone nail, but rather fits within a bore in the nail. In addition, applicants have made it clear that the resilient sleeve deforms along the

transverse axis through the nail and the axis is transverse to the longitudinal axis of the nail and not, as is apparently the Examiner's position, along the longitudinal axis of the nail as would be the case if the set screw through the proximal longitudinal axial bore would engage the sleeve outer circumference.

Furthermore, it is applicants' position that the invention described with the present application does not disclose the use of a resilient sleeve. No reasonable interpretation of the specification would lead one skilled in the art to believe the resiliency required is an inherent property of a solid titanium alloy sleeve. One skilled in the art would understand that titanium alloy is a hard and stiff material which, because of its strength, is used for implants. The present invention has as one aspect that the mechanical tension initially applied to the cross-locking screws can be maintained even if the bone remolds during the healing of a fracture. One skilled in the art would understand that the solid metal sleeve of Lawes would not have the inherent flexibility to accomplish this desired result.

Applicants have added new claims 28, 29 and 30 which applicants believe distinguish over the prior art cited for the reasons set forth above.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.


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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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